

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS
)
) Hon. Patti B. Saris
THIS DOCUMENT RELATES TO THE)
AMENDED MASTER CONSOLIDATED) Chief Mag. Judge Marianne B. Bowler
CLASS ACTION)
)

**TRACK TWO DEFENDANTS' SECOND MOTION TO RENEW THEIR MOTION TO
COMPEL (DOCKET ENTRY NO. 2162) DIRECTED TO
NATIONAL HERITAGE INSURANCE COMPANY IN ITS CAPACITY AS THE
MEDICARE PART B CARRIER FOR MASSACHUSETTS**

Defendant Aventis Pharmaceuticals Inc. on behalf of itself and all other Track Two Defendants, hereby reasserts and renews, for a second time, the Track Two Defendants' Motion to Compel (Docket Entry No. 2162) to the extent that it was and is directed to National Heritage Insurance Company ("NHIC") and only to the extent that NHIC be required to produce the following categories of documents:

- NHIC's internal guidelines for processing Medicare Part B reimbursement payments to providers for physician administered drugs, which are NHIC's desk level procedures and help desk files
- The external guidelines for processing NHIC's Medicare Part B reimbursement payments to providers for physician administered drugs, which are the billing guidelines, newsletters, and special bulletins

In its May 11, 2006 submission to this Court (Docket Entry No. 2556), NHIC indicated that it was willing to produce these categories of document and that it was willing to do so on or before June 5, 2006. See Docket Entry No. 2556 at page 9 of 30, ¶¶ 3-4 (Proposed Order). Despite the

Track Two Defendants repeated requests for these documents, NHIC has failed to produce them and, moreover, has been totally unresponsive to counsel's repeated requests for same. See Declaration of Aimée E. Bierman. As a result, the Track Two Defendants are forced to renew their Motion to Compel—for the second time—in order to compel said production. To the extent that NHIC has failed to respond to the Track Two Defendants' request for a discovery conference, the Track Two Defendants respectfully request sanctions and allowance of their Motion to Compel.

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Dated: July 7, 2006

LOCAL RULE 7.1(A)(2) AND 37.1 CERTIFICATION

Pursuant to Local Rules 7.1(a)(2) and 37.1, the undersigned counsel hereby certifies that by letter dated June 28, 2006, counsel for the Track Two Defendants attempted to initiate a discovery conference. Counsel for NHIC has failed to respond to the Track Two Defendants.

/s/ Aimée E. Bierman
Aimée E. Bierman

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Aimée E. Bierman
Aimée E. Bierman